

**Equal Employment Opportunity  
And Affirmative Action**

**Guidelines  
for the**

**MINNESOTA MERIT SYSTEM'S  
County Human Services Agencies**

**2011-2013**

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## **MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES: INTRODUCTION, PURPOSE, & SCOPE**

### **PURPOSE**

The Minnesota Merit System's (MMS) Affirmative Action and Equal Employment Opportunity Policies are administered by the Minnesota Department of Human Services' (DHS) Office for Equal Opportunity.

The purpose of this bulletin is to request each MMS county human service agency to adopt, revise, and/or develop equal opportunity and affirmative action guidelines to ensure equal employment opportunity and affirmative action in county human services agency workforces served by the MMS.

The purpose of these guidelines continues to be to establish minimum affirmative action and equal employment opportunity standards for the human services agencies in MMS counties. These guidelines are intended to provide a consistent framework with regard to equal employment opportunity and affirmative action in MMS county human services agencies. Please see Appendix I of this document for a list of technical definitions.

### **POLICY**

It is the policy of the Minnesota Merit System that county human services agencies conduct all employment practices without regard to race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation. Equal employment opportunity under this policy includes, but is not limited to, the following: recruitment, examination, appointment, tenure, compensation, classification, promotion, or other activities in accordance with applicable federal, state, and local laws and regulations.

A program of affirmative action will be maintained to eliminate barriers to equal employment opportunity and to encourage the employment and advancement of qualified females and minorities when these groups are under represented in a county human service agency's workforce in any job category. Although hiring goals are not set for persons with a disability, agencies are required to provide equal employment opportunities to, and encouraged to actively recruit, persons with a disability.

### **RESPONSIBILITIES**

A county human service agency's director has overall responsibility for implementing the MMS equal employment opportunity and affirmative action guidelines throughout that agency. This includes establishing specific internal procedures that minimally meet the standards provided by the MMS guidelines.

### **ROLE OF DHS**

The DHS Office for Equal Opportunity provides consultation, technical assistance, recruitment, training, and goal-setting review and monitoring of MMS human service agencies to ensure affirmative action and equal employment opportunity in these agencies.

### **SCOPE**

The MMS equal employment opportunity and affirmative action guidelines apply specifically to all employees of MMS county human services agencies. All MMS county human services agencies must comply with equal employment opportunity and affirmative action guidelines. Any Minnesota county may choose to create a county-wide affirmative action plan and have it approved by the Minnesota Department of Human Rights,

which will issue a certificate of compliance for approved plans. Alternatively, a county may choose simply to adopt the MMS equal employment opportunity and affirmative action guidelines -- proffered in this bulletin - for that county's human services agency.

Merit System Rules (Minnesota Rules, part 9575.0090, subpart 2a) require that each MMS human services agency have an affirmative action plan, which must contain the following:

- A. A policy defining and prohibiting discriminatory harassment, including sexual harassment.
- B. An internal discrimination complaint policy and procedure that includes notification of the Minnesota Department of Human Services' (DHS) Office for Equal Opportunity of complaints that are brought, and their resolution.
- C. Provision for appointment of a person to serve as liaison between the MMS county human services agency and the DHS Office for Equal Opportunity, and to have responsibility for implementation of the guidelines within the agency.
- D. Provision for notification of the DHS Office for Equal Opportunity of periodic hiring goals established by the county human services agency.
- E. Provision for compliance with the Americans with Disabilities Act (ADA), Title I, which prohibits discrimination against disabled employees or job applicants.

Minnesota state law no longer requires that Minnesota counties have an affirmative action plan certified by the Minnesota Department of Human Rights in order to receive any state funds or engage in contracting with the state. This does not, however, exempt MMS county human services agencies from the requirements of the MMS rules, as indicated above.

#### **MMS COUNTY HUMAN SERVICES AGENCY ACTION REQUESTED**

In order to comply with Minnesota Merit System Rules, part 9575.0090, subpart 2a, your agency may choose one of two courses of action. Your agency may:

a) Adopt the proffered Merit System Equal Employment Opportunity and Affirmative Action Guidelines as your agency's Equal Opportunity/Affirmative Action Plan and implement the guidelines within your agency—including developing hiring goals where workforce disparities exist—and submit a letter indicating the adoption of those guidelines to the DHS Office for Equal Opportunity;

OR

b) Adopt an Equal Opportunity/Affirmative Action Plan that is certified by the Minnesota Department of Human Rights and submit a copy of the Certificate of Compliance to the DHS Office for Equal Opportunity. If your county already has a Certified Plan, your agency's adoption of that plan meets requirements under MMS rules.

Please send this information to the attention of the Minnesota Department of Human Services, Office for Equal Opportunity, Minnesota Merit System Consultant, Box 64997, St. Paul, MN 55164-0997.

**MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES:  
RESPONSIBILITIES, DUTIES, & ACCOUNTABILITIES**

**OFFICE FOR EQUAL OPPORTUNITY at MINNESOTA DEPARTMENT OF HUMAN SERVICES**

**RESPONSIBILITIES:**

The DHS Office for Equal Opportunity has oversight responsibility for and authority to monitor the Minnesota Merit System's equal employment opportunity and affirmative action efforts in order to ensure compliance with federal and state laws and the MMS rules.

**DUTIES:**

To monitor implementation of MMS county human services agencies' required affirmative action plans and their compliance with equal employment opportunity and affirmative action guidelines. To provide technical assistance, as requested, to MMS county human services agencies in the implementation of their affirmative action plans.

**ACCOUNTABILITY:**

To the commissioner of the Minnesota Department of Human Services.

**MINNESOTA MERIT SYSTEM PERSONNEL at MINNESOTA DEPARTMENT OF HUMAN SERVICES**

**RESPONSIBILITIES:**

DHS Minnesota Merit System personnel have responsibility for ensuring that all assessment and selection processes are job-related, and that there are no barriers or hindrances to affirmative action and equal employment opportunity in MMS county human services agencies. They will also ensure that MMS county human services agencies have the opportunity to act affirmatively in hiring within job categories where there are disparities.

**DUTIES:**

1. Publish job announcements for MMS county human services agency openings, maintain communication with organizations in targeted communities for recruitment purposes, and conduct recruitment for professional and managerial staff.
2. Expand certification, as necessary, to include protected group applicants when a disparity exists in the job class for which the MMS county human services agency is hiring.
3. Maintain a record of all competitive and promotional examination openings and appointments within agencies by gender, race, and disability.
4. Review position descriptions and class specifications to ensure that they are accurate and that stated requirements are job-related.
5. Ensure that selection processes are free of adverse impact.

**ACCOUNTABILITY:**

To the commissioner of the Minnesota Department of Human Services.

## **MMS COUNTY HUMAN SERVICES AGENCY DIRECTOR**

### **RESPONSIBILITIES:**

The Minnesota Merit System county human services agency director has responsibility for ensuring the overall implementation of the agency's affirmative action and equal employment opportunity policies and for compliance with fair employment practices and with federal and state laws and MMS rules.

### **DUTIES:**

1. Communicate and demonstrate a personal commitment to the agency's affirmative action and equal employment opportunity policies and to the MMS affirmative action guidelines.
2. Set numerical hiring goals and develop action steps and timetables for recruiting and hiring women and minorities. Although it is not required that hiring goals be set for persons with a disability, the director will ensure that the agency actively recruits disabled applicants and provides equal employment opportunities.
3. Notify the DHS Office for Equal Opportunity in January of each year of the agency's progress and of activities engaged in to achieve affirmative action hiring goals during the reporting period.
4. Resolve internal complaints of discrimination, and notify the DHS Office for Equal Opportunity -- also in January of each year -- of all discrimination complaints brought by employees of the agency during the reporting period.
5. Inform hiring supervisors of equal opportunity and affirmative action guidelines and encourage them to act affirmatively whenever an opportunity exists to hire a qualified protected group applicant into a job category where a disparity exists.
6. Ensure that information about equal employment opportunity and affirmative action is disseminated to all MMS employees in the agency.
7. Ensure that the workplace is free of discrimination.
8. Designate a liaison to the DHS Office for Equal Opportunity and ensure that the liaison has the necessary information and knowledge to carry out the duties required of the liaison. The director will consult at least quarterly with the Affirmative Action/Equal Employment Opportunity (AA/EEO) liaison for the purpose of reviewing the status of equal employment opportunities and affirmative action needs in the agency, including any discrimination complaint activity

### **ACCOUNTABILITY:**

To the county commissioners.

## **MMS COUNTY HUMAN SERVICES AGENCY AFFIRMATIVE ACTION LIAISON/DESIGNEE**

### **RESPONSIBILITIES:**

A Minnesota Merit System county human services agency affirmative action liaison or designee has responsibility for ensuring compliance with MMS equal employment opportunity and affirmative action guidelines on a daily basis. To this end, the liaison will act in an advisory capacity to the agency director with regard to equal employment opportunities and affirmative action. The liaison will monitor the agency's affirmative action and equal employment opportunity efforts to ensure compliance with federal and state laws and with MMS rules.

### **DUTIES:**

1. Develop an equal employment opportunity and affirmative action policy statement and an affirmative action plan consistent with those policies.
2. Implement the affirmative action plan, including:
  - a. the internal and external dissemination of the agency's EEO/AA policies and the affirmative action plan,
  - b. the establishment of affirmative action hiring goals, action steps, and timetables,
  - c. the active recruitment and employment of protected group applicants,
  - d. the recruitment and utilization of businesses owned by protected group members.
3. Conduct and/or coordinate employee training on and orientation to the agency's EEO/AA policies and plan.
4. Ensure that agency managers and supervisors understand their responsibilities to take action to prevent the harassment of employees and applicants for employment.
5. Ensure that protected group (minority, female, disabled) employees are provided equal opportunity in attending agency-sponsored training and activities, and in benefit plans, pay, and other work-related activities and conditions.
6. Implement and maintain equal employment opportunity auditing, reporting, and record-keeping systems as a means of gauging the effectiveness of the agency's affirmative action efforts, and of determining whether or not affirmative hiring goals have been attained.
7. Actively liaise with the DHS Office for Equal Opportunity and with other relevant governmental enforcement agencies, as well as with DHS Merit System personnel, as appropriate.
8. Coordinate agency and employee support of community programs that may lead to equitable employment of women, minorities, and people with disabilities.

### **ACCOUNTABILITY:**

To the county agency's director.

## **MMS COUNTY HUMAN SERVICES AGENCY MANAGERS & SUPERVISORS**

### **RESPONSIBILITIES:**

Minnesota Merit System county human services agency managers and supervisors have responsibility for ensuring compliance with MMS equal employment opportunity and affirmative action guidelines and the fair treatment of all agency employees.

### **DUTIES:**

1. Assist the agency's equal employment opportunity/affirmative action liaison with identifying and resolving problems related to equal employment opportunity and with eliminating barriers which inhibit or prevent equal employment opportunity and/or affirmative action.
2. Consider qualified protected group members and where possible act affirmatively in hiring and promoting staff.
3. Communicate and demonstrate a personal commitment to the agency's EEO/AA policies and MMS affirmative action guidelines.
4. Make recruitment recommendations to the EEO/AA liaison and assist the liaison with special recruitment projects.
5. Ensure that all employees under your supervision receive an annual orientation to the agency's affirmative action plan and equal employment opportunity policies.
6. Identify, document, and address training needs related to equal employment opportunity and affirmative action.

### **ACCOUNTABILITY:**

To the county agency's director.

## **MMS COUNTY HUMAN SERVICES AGENCY EMPLOYEES**

### **RESPONSIBILITIES:**

Minnesota Merit System county human services agency employees at all levels shall be responsible for conducting themselves in accordance with the MMS rules and with state and federal laws by refraining from any actions which would interfere with any employee's work performance with respect to that person's race, creed, color, sex, national origin, age, marital status, disability, sexual orientation, reliance on public assistance, membership or activity in a local human rights commission, religion, political opinions or affiliations. Employees who believe they have been subjected to unlawful discrimination are encouraged to avail themselves of recourse through the agency's discrimination complaint procedure.

Each employee has the responsibility to become familiar with the MMS equal employment opportunity and affirmative action guidelines and the agency's policies on non-discrimination and the prevention of sexual and general harassment.

### **ACCOUNTABILITY:**

To the county agency's director, management, and supervisors.



## **MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES: DISSEMINATION OF INFORMATION**

### **INTERNAL**

The Americans with Disabilities Act (ADA) requires employers to post a notice stating the provisions of the ADA that apply to job applicants and employees. The notice must be posted in a place accessible to people in wheelchairs, and it must be made available in alternative formats for individuals with a vision loss or reading disabilities. This applies to MMS county human services agencies.

In addition, MMS county human services agencies must post on their official bulletin boards -- accessible to all applicants, employees, and the public -- a copy of the MMS Equal Employment Opportunity and Affirmative Action Guidelines, along with the agency's most recent hiring goals, timetables proposed for meeting those goals, and the action steps to be taken to meet them.

Annually, the MMS county human services agency's director will transmit a letter or memo to agency staff affirming the organization's commitment to affirmative action and equal opportunity in employment.

Additionally, the MMS county human services agency will hold regular (at least biennial) training sessions for the purpose of ensuring that managers and supervisors understand the MMS Equal Employment Opportunity and Affirmative Action Guidelines and their responsibilities under the guidelines. Further, a review of these guidelines will be included in new employee orientation.

When appropriate, information about the MMS EEO/AA Guidelines and the agency's non-discrimination and harassment-prevention policies will be included in internal publications.

### **EXTERNAL**

MMS human services agencies must post on their official bulletin boards -- accessible to all applicants, employees, and the public -- a copy of the MMS Equal Employment Opportunity and Affirmative Action Guidelines, along with the agency's most recent hiring goals, timetables proposed for meeting those goals, and the action steps to be taken to meet them.

The phrase "An Equal Opportunity/Affirmative Action Employer" will be included on agency letterhead and in all advertisements for MMS county human services agency positions. These positions will be advertised in appropriate protected group publications, whether in print or electronically, including on the World Wide Web.

An assurance of non-discrimination will be included in all contracts for programs or other activities which receive any federal financial assistance.

A written expression of the agency's position on equal employment and affirmative action will be included as appropriate in newspaper, magazine, and Web-based advertising and/or brochures and like recruitment materials.

**MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES:  
AUDIT AND EVALUATION: GOALS, ACTION STEPS, AND TIMETABLES**

**AUDIT & EVALUATION**

The Minnesota Merit System county human services agency director or the appointed EEO/AA designee for that county agency will determine annually whether or not minorities or females are under represented in the job categories utilized in the agency's workforce. This will be done by comparing the availability of minority and female job-candidates in the geographic recruitment area with the number of minorities and females who are actually employed in those job categories in the agency. If there is a disparity (under representation) in any job category for either protected group, the agency is obligated to set hiring goals, determine action steps to be taken to achieve those hiring goals, and set timetables for executing the action steps.

A non-discrimination clause will be included in bargaining unit contracts and in purchasing agreements and contracts whenever possible.

In January of each year, the MMS county human services agency director or the appointed EEO/AA designee for that county will send to the Minnesota Department of Human Services' Office for Equal Opportunity a year-end summary of the agency's equal employment and affirmative action activities for the year. The summary will include an evaluation of the effectiveness of those activities in achieving affirmative action hiring goals and in ensuring a workplace free of unlawful discrimination. To that end, the summary will include:

- A. Information about employment discrimination complaint activity, specifying the numbers and types of discrimination complaints and the status of their resolution.
- B. Information about recruitment activities conducted, specifying the sources of recruitment and the protected group community organizations contacted.
- C. The hiring goals set for the year and the action steps taken towards achieving those goals.
- D. Information about all staff training and/or information sessions conducted related to affirmative action and equal employment opportunity.

Although hiring goals are not required to be set for persons with a disability, agencies are required to provide equal employment opportunities to, and encouraged to actively recruit, persons with a disability.

## **MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES: POLICIES & REQUIREMENTS**

### **PROHIBITION of DISCRIMINATORY TREATMENT**

**Purpose:** To establish a means for maintaining a work environment free of discriminatory treatment in Minnesota Merit System county human services agencies.

**Statement:** MMS county human services agencies shall provide a work environment free of any form of discriminatory treatment, including harassment.

#### **Authority:**

United States Civil Rights Act of 1964, Title VII  
United States Equal Pay Act of 1963  
United States Age Discrimination in Employment Act of 1967  
United States Rehabilitation Act of 1973, Section 504  
Americans with Disabilities Act of 1990, Title I  
Americans with Disabilities Act Amendments Act of 2008  
United States Civil Rights Act of 1991  
Minnesota Human Rights Act  
Genetic Information Nondiscrimination Act of 2008, Title II

### **DISCRIMINATION COMPLAINT HANDLING**

**Purpose:** To provide an internal avenue of recourse to any employee who believes he or she has been discriminated against because of race, color, political affiliation, creed, religion, national origin, disability, age, marital status, status with regard to public assistance, sex, membership or activity in a local commission, or sexual orientation. The disability indicator includes qualified disabled persons who are either job applicants or employees.

**Statement:** While employees of MMS county human services agencies have the right to file discrimination complaints with the Minnesota Department of Human Rights or other enforcement agencies at any time, complainants are urged to seek out internal administrative remedies first.

Anyone bringing an employment discrimination complaint shall do so without fear of reprisal, coercion, or intimidation.

Discrimination complaints and pertinent investigative data and findings will all be handled in accordance with provisions of the Minnesota Data Practices Act, Minnesota Statutes, section 13.39 (1982); 13.02, subdivision 3 (1982); and Minnesota Statutes, section 13.43 (1982); and the Americans with Disabilities Act, Title I.

The discrimination complaint handling process will minimally include:

1. a method to resolve both formal and informal complaints,
2. notification of the DHS Office for Equal Opportunity and
3. a timely response to all complaints.

**Authority:**

United States Civil Rights Act of 1964, Title VII  
United States Equal Pay Act of 1963  
United States Age Discrimination in Employment Act of 1967  
United States Rehabilitation Act of 1973, Section 504  
Americans with Disabilities Act of 1990, Title I  
Americans with Disabilities Act Amendments Act of 2008  
United States Civil Rights Act of 1991  
The Minnesota Human Rights Act  
The Minnesota Data Practices Act  
Genetic Information Nondiscrimination Act of 2008, Title II

**PROHIBITION of DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES**

**Purpose:** Together the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) extend federal civil rights protection to people who are considered disabled. Not every person with a disability is covered by the ADA, but it builds on protections offered in earlier legislation. Minnesota's Human Rights Act and the federal Rehabilitation Act of 1973 also protect people with disabilities from discrimination in employment.

**Statement:** MMS county human services agencies shall provide a work environment free of any form of discrimination. This includes removing barriers to application for employment as well as ensuring that qualified disabled employees are not discriminated against.

The most significant provisions of the ADA with regard to MMS county human services agencies are included in Title I, which prohibit employers from discriminating against qualified disabled individuals in matters of employment, including the application and hiring process. The provisions in Title I of the ADA are broader in scope than, but similar to, the Minnesota Human Rights Act (Minnesota Statutes, chapter 363A), and to Section 504 of the federal Rehabilitation Act of 1973 and Volume 29 of the United States Code, section 794.

ADA regulations make clear that employers, including all state and local governments, must comply with the employment provisions of Title I. The ADA prohibits discrimination against an otherwise qualified disabled individual with regard to the following:

- job application procedures, including recruitment and advertising
- hiring, firing, and advancement
- compensation, training, and other terms, conditions, and privileges of employment such as tenure, layoff, leave, and employee benefits.

If a person is qualified to perform the essential functions of a job except for limitations caused by a disability, the employer must consider whether or not that person could perform those functions with a reasonable accommodation.

Unless it would impose an undue hardship, an employer is required to accommodate a known disability of a qualified applicant or employee. Accommodations are determined by the specifics of the situation and provided on an individual basis. The action to accommodate is generally triggered by a request from an applicant or employee with a disability. However, in certain instances, an employer has an obligation to make inquiries about an individual's need for accommodation. For example, when an employer observes that an applicant or employee has a disability that may prevent him/her from understanding the need to request an accommodation, the employer should initiate discussion about the possible need for accommodation. If the disabled individual cannot suggest an appropriate accommodation in such circumstances, the employer should work with the individual to identify an effective accommodation.

Undue hardship is also determined on a case-by-case basis. If it is determined that a specific proposed or requested accommodation would impose an undue hardship on an employer, an employer is still obligated to identify another accommodation that would not impose a hardship. As long as an accommodation provides the person with the disability an equal opportunity to perform the essential functions of the job, and enjoy the benefits and privileges of employment that other employees have access to, the accommodation need not be the best accommodation available, nor must it be the accommodation desired by the disabled individual.

If an employer believes that a disabled employee or applicant would constitute a direct threat to the health or safety of others, and that a reasonable accommodation to the person's disability would not eliminate the threat, the employer may determine that that individual is not/is no longer qualified to perform the duties of his/her job. Such a determination must be based on objective facts, and must be specific to the situation and the individual and cannot be based on speculation or the remote possibility of a threat or risk to the safety of others.

For a more detailed explanation of your obligations and responsibilities under the ADA, contact the United States Equal Employment Opportunity Commission (EEOC), or the United States Department of Justice's Civil Rights Division. Numerous publications explaining the ADA and its requirements are available from these agencies, and are online at their websites. You may also request technical assistance from the Minnesota Department of Human Service's Office for Equal Opportunity, and from the Minnesota Department of Human Rights. Contact information for all of these agencies is included in Appendix III of these guidelines.

**Authority:**

United States Rehabilitation Act of 1973, Section 504  
Americans with Disabilities Act of 1990, Title I  
Americans with Disabilities Act Amendments Act of 2008  
Minnesota Human Rights Act

**PROHIBITION of SEXUAL HARASSMENT**

**Purpose:** To establish a means for maintaining a work environment free of sexual harassment in Minnesota Merit System county human services agencies.

**Statement:** MMS county human services agencies shall provide a work environment free of any form of sexual harassment. Sexual harassment is a form of sex discrimination, and as such is covered under the same statutes as any kind of discriminatory treatment.

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Sexual harassment can also include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

The harasser can be either a woman or a man, as can the victim. Same-sex sexual harassment has been recognized by the courts and is prohibited as is opposite-sex harassment.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

**Authority:**

Civil Rights Act of 1964, Title VII

Minnesota Human Rights Act

**AFFIRMATIVE ACTION in APPOINTMENT & SELECTION DECISIONS**

**Purpose:** To ensure that affirmative action hiring goals are considered whenever hiring decisions are made within job groups where a workforce disparity exists.

**Statement:** MMS county human services agencies shall act affirmatively to recruit and hire a diverse workforce. When a vacancy occurs in a job group where a disparity exists, agencies shall utilize affirmative recruitment and hiring strategies to attempt to meet the workforce disparity. If fewer than three protected group candidates are on the eligible list, the Minnesota Merit System will use expanded certification to bring the number of eligible candidates certified to a total of three candidates from the protected group in which the disparity exists. Per MMS rule, those candidates certified shall be determined by their examination scores.

**Authority:**

Minnesota Statutes, section 256.012, subdivision 1

Minnesota Rules, part 9575.0620, subpart 7

## **MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES: APPENDIX I**

### **DEFINITIONS**

**Americans with Disabilities Act (ADA)** The Americans with Disabilities Act, passed in 1990, gives civil rights protections to individuals with disabilities that are similar to federal protections provided to individuals on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees equal opportunity for individuals with disabilities in employment, state and local government services, public accommodations, telecommunications, and transportation. Title I of the ADA applies to employers. The ADA does not protect individuals who are currently using illegal drugs, and employers may seek reasonable assurance from employees that no illegal drug use is occurring.

**Americans with Disabilities Act Amendments Act of 2008 (ADAAA)** The ADAAA is an act to restore the intent and protections of the Americans with Disabilities Act of 1990. The ADAAA became effective on January 1, 2009. Currently, state and federal agencies are awaiting regulations regarding the implementation of the ADAAA.

**Affirmative Action** A program of proactive efforts to remedy historical discrimination, in employment, against women, minorities, and, in Minnesota state government, persons with disabilities. This remedial program may involve recruitment efforts targeted at these specific groups when disparities in the workforce have been identified. Minnesota Merit System county agencies are not required to set hiring goals for people with disabilities, but the federal Rehabilitation Act of 1973 does require MMS county human services agencies to track employment data on disabled employees.

**(Affirmative) Action Steps** Those steps which an agency plans to take to address workforce disparities. They could include, but are not limited to, identifying and removing barriers to employment for minorities or females; further educating hiring supervisors and managers about their obligations under affirmative action and equal opportunity law; planning events that will increase awareness of and knowledge about other cultural groups in your geographic region; targeting recruitment at under-represented groups, even outside the geographic region.

**Creed** A system of beliefs, principles, or opinions to which an individual adheres. It might be religious, political, or philosophical in nature.

**Disabled Individual** A disabled individual is a person who a.) has a physical or mental impairment that substantially limits one or more major life activities, or b.) has a record of such impairment, or c.) is regarded as having such an impairment.

**Discrimination** An act or series of acts made toward another group or a perceived member of that group that, when compared with one's behavior toward one's own or other groups, is/are unfair. Such action may be based on prejudice or ignorance.

**Discriminatory Harassment** Any form of behavior that is offensive, unwelcome, and/or creates a hostile work environment and which, for purposes of this document, is based on an individual's race, color, political affiliation, creed, religion, national origin, disability, age, sex, marital status, status with regard to public assistance, membership or activity in a local commission, or sexual orientation.

Harassment has occurred when a.) submission to that conduct or communication is made a term (explicitly or implicitly) of employment; b.) submission to or rejection of that conduct or communication is used as a factor in decisions affecting an individual's employment; or, c.) the conduct or communication has the purpose or the effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment.

**Disparity** The presence of fewer women, minorities, or persons with a disability in the workforce than could reasonably be expected based on their availability for work in the geographic area where the underemployment is found.

**Ethnic** Designating basic groups or divisions of human beings as distinguished by customs, a common language, a common history, a common religion, or other such characteristics. Ethnicity in general, then, may be regarded as referring to a specific type of culture, and an individual's ethnicity may be regarded as referring to that person's cultural heritage.

**Ethnocentrism** The attitude that one's own ethnic group/nation/culture is superior to all others; this attitude may be expressed in hostile behavior, violence, or discrimination towards members of out-groups.

**Equal Employment Opportunity/Equal Opportunity Employment** A system of employment practices wherein individuals are recruited, hired, and promoted on their own merits and, for purposes of this document, without regard to race, color, political affiliation, creed, religion, national origin, disability, age, sex, marital status, status with regard to public assistance, membership or activity in a local commission, or sexual orientation.

**Gender** One's physical sex, male or female, usually evident at birth.

**General Harassment** Any behavior or combination of behaviors that is repeated by one or more employees and that is directed towards another employee or group of employees that is considered annoying, insulting, or intimidating, or which causes discomfort and/or which has a detrimental effect on the employee's/employees' work performance(s).

**Genetic Information Nondiscrimination Act of 2008 (GINA)** This law makes it illegal to discriminate against employees or applicants on the basis of genetic information. Genetic information includes information about an individual's genetic tests or information about the genetic tests of an individual's family member(s), as well as information about any disease, disorder or condition of an individual's family member(s) --i.e., an individual's family medical history. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

**Hiring Goal** A numerical objective designed to remedy a workforce disparity; an employment level to strive for through the use of affirmative recruitment, hiring timetables, and other such action steps; to be achieved within a set period of time, such as a year.

**Major Life Activities** These include, but are not limited to, activities such as walking, talking, standing, sitting, hearing, seeing, performing manual tasks, caring for oneself, thinking, concentrating, other cognitive functions, relating to others, working, etc.



**Minorities** This term refers to persons in the workforce, or potential applicants, who are black or of Hispanic, Asian, Pacific Islander, American Indian, or Native Alaskan heritage.

**Parity** A condition in which protected groups are represented in the workforce in proportion to their availability in a geographic labor market.

**Protected Group/Class** For purposes of affirmative action and equal employment opportunity, this term refers to persons who are disabled, members of a minority group, or are female.

**Qualified Person With a Disability** This is a person who has a physical or mental impairment that substantially limits one or more major life activities, or who has a record of such an impairment, or who is regarded by others as having such an impairment, and who also has the requisite skill, experience, education, or other employment requirements of the position being sought and who can perform the essential functions of that job with or without a reasonable accommodation.

**Race** Any of the different varieties of human beings as distinguished by physical characteristics such as form of hair, color of skin, bodily proportions, etc.; one of the group of populations constituting humanity, where differences are biological in nature -- and cannot be linked with other traits such as intelligence, personality, or character -- and are transmitted genetically; this term is inappropriate when applied to national, religious, geographic, linguistic, or cultural groups.

**Racism** The notion, lacking scientific support, that one race is superior (or inferior) to another; any program or practice of discrimination based on racial differences; the attribution of cultural or psychological values to race, with the aim of furthering the superiority of one's own race or the inferiority of another.

**Reasonable Accommodation** Any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions.

**Sex Role** Learned through socialization/enculturation, this refers to one's understanding and embracing of how, based on one's gender/sex, one is to act in a cultural or social group.

**Sexism** The economic and/or social exploitation and domination of members of one sex by the members of the other.

**Sexual Identity** Acquired over time, this refers to one's awareness and conception of oneself as male or female; as masculine or feminine; as oriented toward opposite-sex, same-sex, or both-sexes; as sexually attractive or sexually unattractive; etc.

**Sexual Harassment** Any form of behavior that is offensive, unwelcome, and/or creates a hostile work environment and which is based on an individual's sex/gender. This behavioral conduct may include jokes, inappropriate language, sexual innuendos, inappropriate pictures, sexual gestures, and physical touch that is offensive or unwelcome.

**Substantially limited** This means a person is unable to perform, or is significantly limited in the ability to perform, one or more major life activities.

**Timetable** Refers to the period of time within which affirmative action steps are to be taken and set hiring goals are to be achieved.

**Under Representation** The condition in which fewer protected group members are found in the workplace in a particular job category than would be expected from the availability of qualified protected group members in the labor market.

**Undue Hardship** An accommodation action that would require significant difficulty or expense to implement when factors such as the nature and cost of the accommodation are considered in relation to the size, nature, structure, and resources (both financial and personnel) of the employer's operation.

## **REVISED RACE/ETHNICITY CATEGORIES**

The United States Equal Employment Opportunity Commission (EEOC) revised its race and ethnicity categories for the purposes of reporting employment statistics prior to the 2000 census (see Introduction to Race and Ethnic (Hispanic Origin) Data for the Census 2000 Special EEO File.) The revised categories and their definitions are as follow:

1. **White** A person having origins in any of the original peoples of Europe, North Africa, or the Middle East
2. **Black or African American** A person having origins in any of the black racial groups of Africa
3. **American Indian or Alaska Native** A person having origins in any of the original peoples of North, Central, and South America, and who maintains tribal affiliation or community attachment
4. **Asian** A person having origins in any of the original peoples of the Far East -- i.e., Southeast Asia, the Indian Subcontinent, China, Korea, and Japan
5. **Native Hawaiian or Other Pacific Islander** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
6. **Hispanic or Latino** A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

Categories 1-5 are regarded as racial categories by the federal government, while category 6 is regarded as an ethnic category. (Office of Management and Budget, Federal Register, October 30, 1997)

**MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES:  
APPENDIX II**

SAMPLE DISCRIMINATION COMPLAINT FORM, Page 18

SAMPLE REASONABLE ACCOMMODATION REQUEST FORM, Page 19

SAMPLE ADA ADVISORY BLOCK, Page 20

**Minnesota Merit System Agency  
SAMPLE COMPLAINT OF DISCRIMINATION FORM**

Employee Name \_\_\_\_\_ Today's Date \_\_\_\_\_

Job Title \_\_\_\_\_ Date of Alleged Discrimination \_\_\_\_\_

Work Address \_\_\_\_\_  
\_\_\_\_\_

Your Supervisor \_\_\_\_\_

Name of person(s) alleged to have discriminated against you:

\_\_\_\_\_ Job title \_\_\_\_\_

\_\_\_\_\_ Job title \_\_\_\_\_

\_\_\_\_\_ Job title \_\_\_\_\_

Work address(es) of above if different from yours \_\_\_\_\_

His/her supervisor(s) \_\_\_\_\_

Above supervisor's work address \_\_\_\_\_

**BASIS OF COMPLAINT**

☐ Race    ☐ Creed    ☐ Religion    ☐ Age    ☐ Marital Status    ☐ Color

☐ Disability (employee or job applicant)\*    ☐ Status With Regard to Public Assistance    ☐ Sex

☐ National Origin    ☐ Sexual orientation    ☐ Political Affiliation    ☐ Membership/Activity in Local Commission

Describe how you believe you have been discriminated against; be as specific as possible:

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\_\_\_\_\_  
Employee Signature                      Date

\_\_\_\_\_  
Person Receiving the Complaint                      Date

\*ADA Title I prohibits employers from discriminating against qualified disabled employees and job applicants.

**Minnesota Merit System Agency**  
**SAMPLE EMPLOYEE REQUEST FOR REASONABLE ACCOMMODATION**

Employee Name: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Telephone #: \_\_\_\_\_

Location: \_\_\_\_\_ Date: \_\_\_\_\_

Please read each section carefully, complete thoroughly, and write legibly. Failure to do so will result in a delay in the accommodation process. If more space is needed use additional paper or write on the back of the form, identifying each section.

1. Please describe the nature of your limitations, what major life activity or activities is/are substantially limited, and how severely the major life activity/activities is/are limited.

Major life activities include, but are not limited to, activities such as walking, talking, standing, sitting, hearing, seeing, performing manual tasks, caring for oneself, thinking, concentrating, other cognitive functions, relating to others, working, etc.

Substantially limited means you are unable to perform, or are significantly limited in the ability to perform, one or more of these activities, compared to an average person in the general population.

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2. How does the substantial limitation of the major life activity/activities impact your ability to perform your job?

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3. Type of Accommodation(s) Being Requested:

\_\_\_ Job restructuring: e.g., changing or adjusting when and how essential functions are performed through job sharing, part-time or flexible work hours, changing or waiving policy or work practices.

\_\_\_ Job site modifications: e.g., changing the work station using space dividers, rearranging office furniture and equipment, creating accessible routes to and within the building.

\_\_\_ Providing support services: e.g., sign language interpreters, readers, note takers.

\_\_\_ Modifications of equipment and/or provision of assistive devices: e.g., teletype machines for the deaf [TTY], assistive listening devices, tactile markings on equipment, or special computer equipment or software.

Please describe in detail the specific accommodation(s) you are requesting:

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4. How will this requested accommodation be effective in allowing you to perform the essential job function(s)?

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5. Have any other changes or adjustments already been made to help you perform your job duties?

\_\_\_ YES \_\_\_ NO If yes, please describe:

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6. If yes, how effective were/are they in enabling you to perform the essential function(s) of your job?

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7. Additional Comments:

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Return this completed form with a copy of your position description to your agency's designated ADA Coordinator.

If you have any questions or need assistance to complete this form please contact:

County Human Services Agency ADA Coordinator

Street Address

City, State, ZIP Code

(xxx) xxx-xxxx voice

(xxx) xxx-xxxx tdd/tty

(xxx) xxx-xxxx fax

I understand that any tangible accommodations purchased by the agency will become the property of \_\_\_\_\_ County.

Signature of Employee: \_\_\_\_\_

Date: \_\_\_\_\_

**Minnesota Merit System Agency**  
**SAMPLE AMERICANS WITH DISABILITIES ACT ADVISORY**

**Americans with Disabilities Act (ADA) Advisory**

This information is available in alternative formats to individuals with disabilities by calling [List your county human services agency contact number (voice) or toll free at (800) 000-0000 (include if available)]. TTY users can call through the Minnesota Relay at (800) 627-3529. For Speech-to-Speech, call (877) 627-3848. For additional assistance with legal rights and protections for equal access to human services programs, contact your county human services agency's ADA coordinator.

**MINNESOTA MERIT SYSTEM AFFIRMATIVE ACTION GUIDELINES:  
APPENDIX III**

CONTACT INFORMATION FOR TECHNICAL ASSISTANCE: FEDERAL

**Equal Employment Opportunity Commission**

1801 L Street, NW  
Washington, DC 20507  
1-800-669-4000 (v)  
<http://www.eeoc.gov>

**US Department of Labor Office of Disability Employment Policy**

200 Constitution Ave., NW  
Washington, DC 20210  
1-866-487-2365  
202-693-3844  
[www.dol.gov/odep](http://www.dol.gov/odep) or <http://askjan.org>

**Architectural and Transportation Barriers Compliance Board**

Suite 1000  
1331 F Street, NW  
Washington, DC 20004-1111  
1-800-872-2253  
<http://www.access-board.gov>

**Federal Communications Commission**

445 Twelfth Street, SW  
Washington, DC 20554  
1-888-225-5322  
<http://www.fcc.gov>

CONTACT INFORMATION FOR TECHNICAL ASSISTANCE: STATE

**Minnesota Department of Human Services' Merit System Office**

540 Cedar Street  
Box 64997  
St. Paul, MN 55164-0997  
(651) 431-3030  
[dhs.merit.system@state.mn.us](mailto:dhs.merit.system@state.mn.us)

**Minnesota Department of Human Services' Office for Equal Opportunity**

540 Cedar Street  
Box 64997  
St. Paul, MN 55164-0997  
(651) 431-3040  
(866) 786-3945 (Text Net/TTY)  
[dhs.equalopportunity@state.mn.us](mailto:dhs.equalopportunity@state.mn.us)



**Minnesota Department of Human Rights**

190 East Fifth Street, Suite 700

St. Paul, MN 55101

1-800-657-3704, 651-296-5663

<http://www.humanrights.state.mn.us>

**Americans with Disabilities Act (ADA) Advisory**

This information is available in alternative formats to individuals with disabilities by calling the MN Department of Human Services' Office for Equal Opportunity at (651) 431-3040 (voice; the EO Office's general information phone number). TTY users can contact us by e-mail at [dhs.equalopportunity@state.mn.us](mailto:dhs.equalopportunity@state.mn.us) or by calling us at (866) 786-3945 (Text Net) or by using the Minnesota Relay at 711 or (800) 627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.